

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MARY FRANCES MOHR, aka
MARY FRANCES FENNER**

Registered Nurse License No. 627861

Respondent.

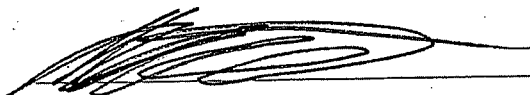
Case No. 2012-330

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 3, 2012.

IT IS SO ORDERED this July 3, 2012.



Erin Niemel
Temporary Chair
Board of Registered Nursing
Department of Consumer Affairs
State of California

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2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

13 **MARY FRANCES MOHR, AKA MARY**
14 **FRANCES FENNER**
15 **712 Clamath Street**
Spring Valley, CA 91977

16 **Registered Nurse License No. 627861**

17 Respondent.

Case No. 2012-330

STIPULATED SURRENDER OF
LICENSE AND ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
23 Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Nicole R. Trama, Deputy Attorney General.

26 2. Mary Frances Mohr, also known as Mary Frances Fenner (Respondent) is
27 representing herself in this proceeding and has chosen not to exercise her right to be represented
28 by counsel.

3. On or about October 14, 2003, the Board of Registered Nursing issued Registered Nurse License No. 627861 to Mary Frances Mohr, also known as Mary Frances Fenner (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-330 and will expire on November 30, 2013, unless renewed. On or about October 13, 2011, pursuant to an order issued by the Superior Court of California, Respondent's license was suspended under Penal Code section 23.

JURISDICTION

4. Accusation No. 2012-330 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 1, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-330 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2012-330. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.

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ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 627861, issued to Respondent Mary Frances Mohr, also known as Mary Frances Fenner, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Registered Nursing.

2. Respondent shall lose all rights and privileges as a registered nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2012-330 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$7,479.75. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2012-330 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

1 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
2 years from the effective date of the Board of Registered Nursing's Decision and Order.

3 ACCEPTANCE

4 I have carefully read the Stipulated Surrender of License and Order. I understand the
5 stipulation and the effect it will have on my Registered Nurse License. I enter into this
6 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
7 be bound by the Decision and Order of the Board of Registered Nursing.

8
9 DATED:

March 16, 2012

Mary Frances Mohr

MARY FRANCES MOHR, AKA MARY
FRANCES FENNER
Respondent

12 ENDORSEMENT

13 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
14 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

15 Dated:

March 16, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

Nicole R. Trama

NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-330

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10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

Case No. **2012- 330**

13 **MARY FRANCES MOHR**
14 **aka MARY FRANCES FENNER**
15 **712 Clamath Street**
Spring Valley, CA 91977

A C C U S A T I O N

16 **Registered Nurse License No. 627861**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

- 20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.
- 23 2. On or about October 14, 2003, the Board of Registered Nursing issued Registered
24 Nurse License Number 627861 to Mary Frances Mohr, also known as Mary Frances Fenner
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on November 30, 2013, unless renewed. On or about
27 October 13, 2011, pursuant to an order issued by the Superior Court of California, Respondent's
28 license was suspended under Penal Code section 23.

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1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

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10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the meaning
15 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
16 licensed under this chapter to do any of the following:

17 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
a licensed physician and surgeon, dentist, or podiatrist administer to himself or
18 herself, or furnish or administer to another, any controlled substance as defined in
Division 10 (commencing with Section 11000) of the Health and Safety Code or any
19 dangerous drug or dangerous device as defined in Section 4022.

20 (b) Use any controlled substance as defined in Division 10 (commencing with
Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
21 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
22 extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
24 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
25 the conviction is conclusive evidence thereof.

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
2 entries in any hospital, patient, or other record pertaining to the substances described
3 in subdivision (a) of this section.

4 REGULATORY PROVISIONS

5 11. California Code of Regulations, title 16, section 1444, states:

6 A conviction or act shall be considered to be substantially related to the
7 qualifications, functions or duties of a registered nurse if to a substantial degree it
8 evidences the present or potential unfitness of a registered nurse to practice in a
9 manner consistent with the public health, safety, or welfare. Such convictions or acts
10 shall include but not be limited to the following:

11 (a) Assaultive or abusive conduct including, but not limited to, those violations
12 listed in subdivision (d) of Penal Code Section 11160.

13 (b) Failure to comply with any mandatory reporting requirements.

14 (c) Theft, dishonesty, fraud, or deceit.

15 (d) Any conviction or act subject to an order of registration pursuant to Section
16 290 of the Penal Code.

17 12. California Code of Regulations, title 16, section 1445 states:

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19 (b) When considering the suspension or revocation of a license on the grounds
20 that a registered nurse has been convicted of a crime, the board, in evaluating the
21 rehabilitation of such person and his/her eligibility for a license will consider the
22 following criteria:

23 (1) Nature and severity of the act(s) or offense(s).

24 (2) Total criminal record.

25 (3) The time that has elapsed since commission of the act(s) or offense(s).

26 (4) Whether the licensee has complied with any terms of parole, probation,
27 restitution or any other sanctions lawfully imposed against the licensee.

28 (5) If applicable, evidence of expungement proceedings pursuant to Section
1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

25 COSTS

26 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 DRUGS

4 14. Dilaudid, known generically as hydromorphone, is a Schedule II controlled substance
5 as designated by Health and Safety Code Section 11055, subdivision (b)(1)(K), and is a
6 dangerous drug pursuant to Business and Professions Code section 4022.

7 15. Demerol, known generically as meperidine, is a Schedule II controlled substance as
8 designated by Health and Safety Code Section 11055, subdivision (c)(17), and is a dangerous
9 drug pursuant to Business and Professions Code section 4022.

10 16. Morphine sulfate is a Schedule II controlled substance as designated by Health and
11 Safety Code section 11055, subdivision (b)(1)(L), and is a dangerous drug pursuant to Business
12 and Professions Code section 4022.

13 FACTUAL ALLEGATIONS

14 17. Respondent began employment as a registered nurse with Outpatient Surgery of Del
15 Mar (OSDM), a private medical facility, on August 1, 2007. As part of her new employee
16 orientation, Respondent acknowledged with her signature that she received training on OSDM's
17 Policy and Procedure Manual, charting and forms, and medicine administration and
18 documentation.

19 18. On or about January 4, 2010, a charge nurse with the responsibility to review
20 OSDM's distribution and administration of controlled substances discovered that the seals of
21 three Dilaudid carpuments¹ were broken and one carpument was leaking. The charge nurse believed
22 that someone with access to the narcotics locker had tampered with the carpuments, but she was
23 unable to identify the responsible party.

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25 ¹ A carpument is a syringe device for the administration of injectable fluid medication. It is
26 designed with a luer-lock device to accept a sterile hypodermic needle or to be linked directly to
27 intravenous tubing line. The product can deliver an intravenous or intramuscular injection by
28 means of a special holder which attaches to the barrel and plunger. Medication is prefilled into the
syringe barrel. When the plug at the end of the barrel is advanced to the head of the barrel it
discharges and releases the contents through the needle or the tubing.

1 19. On January 12, 2010, the charge nurse was reviewing the Anesthesia Daily Narcotic
2 Log (ADNL) and discovered that Respondent had removed three 2mg/mL carpjects of Dilaudid
3 for an OSDM anesthesiologist. The charge nurse knew that this anesthesiologist did not use
4 Dilaudid to anesthetize his patients, and the patient's chart did not indicate Dilaudid had been
5 administered by Respondent. The charge nurse contacted the anesthesiologist and he confirmed
6 that he had not ordered or authorized the removal of Dilaudid from the narcotics locker for this
7 patient.

8 20. On the afternoon of January 13, 2010, while checking the ADNL, the charge nurse
9 observed that Respondent had removed four 10 mg/ml carpjects of morphine that morning for
10 one of their surgery patients. According to the ADNL, Respondent returned the four carpjects of
11 morphine to the narcotics locker, then removed four carpjects of Dilaudid. The Dilaudid was
12 not charted as administered in the patient's medication administration record (MAR). The charge
13 nurse notified the clinical director of OSDM of her findings.

14 21. On January 14, 2010, Respondent was questioned by the clinical director and the
15 charge nurse about the missing Dilaudid. Respondent admitted she removed the Dilaudid but had
16 no explanation for the charting discrepancies. Respondent suggested the missing Dilaudid may
17 be in her locker, but when she was allowed to retrieve it, Respondent left the facility and was later
18 found in the parking lot with her husband. Respondent admitted to the clinical director and a
19 witness that on January 12th and 13th, she had taken Dilaudid for her personal use. Respondent
20 also admitted she had tampered with the three carpjects the charge nurse discovered on January
21 4, 2010, and that she had taken morphine, Demerol, and Dilaudid from OSDM for her personal
22 use over a period of several months. Respondent's employment was terminated on January 14,
23 2010. OSDM filed a complaint with the Board on or about January 21, 2010.

24 22. The following medication discrepancies were observed for Respondent's patients on
25 January 12 and January 13, 2010:

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1 Narcotic Count Sheet – January 12 and January 13, 2010

2 23. On January 12, 2010, Respondent charted on the Narcotic Count Sheet that she
3 removed a total of 10 mg of Dilaudid, that she administered 2 mg, and that she returned 4 mg to
4 the Narcotics Locker. However, the remaining 4 mg of Dilaudid was unaccounted for.

5 24. On January 12, 2010, Respondent charted on the Narcotic Count Sheet that she
6 removed a total of 50 mg of morphine and that she administered 30 mg of morphine. However,
7 the remaining 20 mg of morphine was unaccounted for.

8 Anesthesia Daily Narcotic Log – January 12 and January 13, 2010

9 25. On January 12, 2010, Respondent charted on the ADNL that she dispensed 2 mg of
10 Dilaudid and that she administered 2 mg of Dilaudid, with no return or wastage recorded, which
11 is inconsistent with the Narcotic Count Sheet, which shows a total of 10 mg of Dilaudid removed,
12 4 mg of Dilaudid returned, 2 mg of Dilaudid used, and 0 mg of Dilaudid wasted.

13 26. On January 12, 2010, Respondent charted on the ADNL that she dispensed 30 mg of
14 morphine and that she administered 30 mg of morphine, with no return or wastage recorded,
15 which is inconsistent with the Narcotic Count Sheet, which shows a total of 50 mg (5 doses of 10
16 mg) of morphine removed, 30 mg of morphine used, with no wastage recorded.

17 Medication Administration Records – January 12 and January 13, 2010

18 27. MR #3748: This patient had a physician's order for Dilaudid and morphine for post-
19 operative pain. Respondent did not chart administration of Dilaudid in the patient's record, which
20 is inconsistent with Respondent's entries on the ADNL and the Narcotic Count Sheet.
21 Respondent failed to account for 1 mg of Dilaudid.

22 28. MR #3765: This patient had a physician's order for Dilaudid and morphine for post-
23 operative pain. Respondent did not chart administration of Dilaudid in the patient's record, which
24 is inconsistent with Respondent's entries on the ADNL and the Narcotic Count Sheet.
25 Respondent failed to account for 1 mg of Dilaudid.

26 29. MR #3771: This patient had a physician's order for Dilaudid for post-operative pain.
27 Respondent did not chart administration of Dilaudid in the patient's record, which is inconsistent
28 with Respondent's entries on the ADNL and the Narcotic Count Sheet. Respondent charted on

1 the ADNL that she administered 1 mg of Dilaudid and 10 mg of morphine. This patient did not
2 have a physician's order for morphine. Respondent failed to account for 1 mg of Dilaudid and 10
3 mg of morphine.

4 30. MR #3772: This patient had a physician's order for Dilaudid for post-operative pain.
5 Respondent did not chart administration of Dilaudid in the patient's record, which is inconsistent
6 with Respondent's entries on the ADNL and the Narcotic Count Sheet. Respondent charted on
7 the ADNL that she administered 1 mg of Dilaudid and 5 mg of morphine. This patient did not
8 have a physician's order for morphine. Respondent failed to account for 1 mg of Dilaudid and 5
9 mg of morphine.

10 31. MR #3774: This patient had a physician's order for Dilaudid for post-operative pain.
11 Respondent did not chart administration of Dilaudid in the patient's record, which is inconsistent
12 with Respondent's entries on the ADNL and the Narcotic Count Sheet. Respondent charted on
13 the ADNL that she administered 1 mg of Dilaudid and 10 mg of morphine to this patient. This
14 patient did not have a physician's order for morphine. Respondent failed to account for 1 mg of
15 Dilaudid and 5 mg of morphine.

16 32. On or about December 6, 2010, Respondent was terminated from the Board's Nursing
17 Diversion Program for failure to comply with the provisions of her rehabilitation plan.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(July 7, 2011 Criminal Conviction for Obtaining Prescription by Fraud & Deceit)**

20 33. Respondent has subjected her license to disciplinary action under sections 490 and
21 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
22 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
23 follows:

24 a. On or about July 7, 2011, in a criminal proceeding entitled *People of the State*
25 *of California v. Mary Frances Mohr*, in San Diego County Superior Court, case number
26 CD234023, Respondent pled guilty to Count 1 of the complaint, violating Health and Safety Code
27 section 11173, subdivision (a), obtaining a prescription by fraud and deceit, a felony. Count 2
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1 (possession of a controlled substance, Health & Safe. Code, § 11350(a)), and Count 3 (petty theft,
2 Pen. Code, § 484), were dismissed pursuant to a plea agreement.

3 b. As a result of the conviction, on or about October 13, 2011, Respondent was
4 sentenced to three years formal probation, required to serve 180 days in custody, and ordered to
5 pay fines, fees and restitution, among other terms.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct - Illegal Possession of Controlled Substances)**

8 34. Respondent has subjected her registered nurse license to disciplinary action under
9 section 2762, subdivision (a) of the Code for unprofessional conduct in that Respondent obtained
10 and illegally possessed controlled substances taken from her employer, as evidenced by her
11 admission to diverting morphine, Demerol, and Dilaudid from her employer as detailed in
12 paragraphs 17-32, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct - Illegal Use of Controlled Substances)**

15 35. Respondent has subjected her registered nurse license to disciplinary action under
16 section 2762, subdivision (b) of the Code for unprofessional conduct in that Respondent admitted
17 using morphine, Demerol, and Dilaudid taken from her employer, an act that is dangerous and/or
18 injurious to herself and others and it impaired her ability to safely conduct nursing as detailed in
19 paragraphs 17-32, above.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Conviction of a Drug-Related Criminal Offense)**

22 36. Respondent has subjected her registered nurse license to disciplinary action under
23 section 2762, subdivision (c) of the Code in that on or about July 7, 2011, Respondent was
24 convicted of a criminal offense of violating Health and Safety Code section 11173, subdivision
25 (a), obtaining a prescription by fraud and deceit, as described in paragraph 33 above.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Falsified Hospital/Patient's Records)

3 37. Respondent has subjected her registered nurse license to disciplinary action under
4 section 2762, subdivision (e) of the Code for unprofessional conduct in that from January 12,
5 2010 to January 13, 2010, as described in paragraphs 17-32, above, Respondent intentionally
6 falsified, or made grossly incorrect or grossly inconsistent entries in OSDM's Anesthesia Daily
7 Narcotic Logs, the Narcotic Count Sheets, and patient's records.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 627861, issued to Mary
12 Frances Mohr, also known as Mary Frances Fenner;

13 2. Ordering Mary Frances Mohr to pay the Board of Registered Nursing the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions
15 Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: December 01, 2011

18 *Louise R. Bailey*
19 LOUISE R. BAILEY, M.Ed., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

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